

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

ARNOLD CARTER,

Petitioner,

v.

No.: 3:05-cv-134  
(VARLAN/GUYTON)

U.S. 6TH CIRCUIT OF APPEAL,

Respondent.

**MEMORANDUM OPINION**

This *pro se* prisoner's action was filed *in forma pauperis* in the United States District Court for the Middle District of Tennessee, Nashville Division, and transferred to this court without service of process. For the reasons stated below, the action will be **DISMISSED**.

Petitioner asserts that he is filing this action pursuant to the Freedom of Information Act. He is seeking to obtain, from the United States Court of Appeals for the Sixth Circuit, the case of Carter v. Stephens, et al., Case No. 81-5092. Petitioner states that he has submitted numerous times before the Sixth Circuit in order to obtain the case. Petitioner further states that the U.S. District Court for the Eastern District of Tennessee is withholding the case from him and thus denying him the means to prove the allegations set forth in 04-00374.

Presumably, petitioner is referring to *Arnold Carter v. Virginia Lewis, Warden*, Civil Action No. 3:04-cv-374 (E.D. Tenn. October 25, 2004) (order transferring action to the Sixth

Circuit). In that case, petitioner filed a petition for the writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his 1972 conviction for first degree murder. Because petitioner had previously filed two petitions for federal habeas corpus relief in the Eastern District of Tennessee, the case was transferred to the Sixth Circuit as a successive § 2254 petition.

Petitioner is asking a district court to order a court of appeals to provide him with documents. This court lacks jurisdiction to issue any order to the United States Court of Appeals for the Sixth Circuit. In addition, the Freedom of Information Act, 5 U.S.C. § 552, applies to executive branch agencies, not to "the courts of the United States." *Id.* § 551(1)(B). *See, e.g., F.D.I.C. v. Ernst & Ernst*, 677 F.2d 230 (2nd Cir. 1982); *Warth v. Department of Justice*, 595 F.2d 521 (9th Cir. 1979); *Cook v. Willingham*, 400 F.2d 885 (10th Cir. 1968).

This action will be **DISMISSED** *sua sponte*, as frivolous and for failure to state a claim upon which relief can be granted. The court will **CERTIFY** that any appeal from this action would not be taken in good faith and would be totally frivolous. *See* Rule 24 of the FEDERAL RULES OF APPELLATE PROCEDURE.

**AN APPROPRIATE ORDER WILL ENTER.**

s/ Thomas A. Varlan  
UNITED STATES DISTRICT JUDGE